

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3 JEWEL HARRISON, No. C 09-01173 CW (PR)

4 Petitioner, ORDER DISMISSING PETITION AS
5 SUCCESSIVE

6 v. (Docket no. 4)

7 EDMUND JERRY BROWN, JR.

8 Respondent. /

9 Petitioner Jewel Harrison, a prisoner incarcerated at the
10 California State Prison - Sacramento, filed this pro se action
11 seeking "permission to enter the Court and file the following writ
12 of habeas petition 28 U.S.C. [§] 2254 or [§] 2255 second or his
13 successive petition." (Pet. at 1.) He has also submitted an
14 application for leave to proceed in forma pauperis (IFP).

15 According to the allegations in the petition and the attached
16 exhibits, Petitioner was convicted in Alameda County Superior Court
17 of attempted robbery, possession of a firearm by a felon, and
18 assault with a firearm. On November 12, 1997, the court sentenced
19 Petitioner to a term of seventy-four years to life in state prison
20 with a \$200.00 restitution fine.

21 On September 16, 1999, Petitioner filed his first federal
22 petition for a writ of habeas corpus in this Court, Harrison v.
23 Lockyer, Case No. C 99-04247 SBA (PR). On September 11, 2000, the
24 Court denied the first petition on the merits. (Case No. C 99-
25 04247 SBA (PR), docket nos. 14, 18.) The denial was affirmed by
26 the Ninth Circuit Court of Appeals on January 21, 2003. Harrison
27 v. Lockyer, 316 F.3d 1063, cert. denied, 538 U.S. 988 (2003).

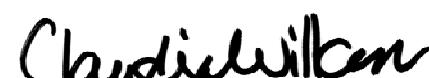
1 The present petition, entitled "Motion for Permission to Enter
2 the Court Pursuant to 18 U.S.C. [§] 2244(b)(3) and (4) Second [or]
3 Successive Petition," could be construed as Petitioner's request to
4 file a second or successive petition attacking the same conviction
5 and sentence as Petitioner's prior federal habeas petition. A
6 second or successive petition may not be filed in this Court unless
7 Petitioner first obtains an order from the Ninth Circuit
8 authorizing this Court to consider the petition. See 28 U.S.C.
9 § 2244(b)(3)(A). It appears that Petitioner submitted an
10 "Application for Leave to File a Second or Successive Petition" as
11 an attachment to his petition with this Court as opposed to filing
12 it directly in the Ninth Circuit; therefore, the Clerk of the Court
13 shall send the present petition (docket no. 1) back to Petitioner.
14 Petitioner should mail that document to the Ninth Circuit to obtain
15 the appropriate order. In his motion to the Ninth Circuit,
16 Petitioner should explain how he meets the requirements of 28
17 U.S.C. § 2244(b)(2).

18 For the foregoing reasons, the present petition is DISMISSED
19 pursuant to 28 U.S.C. § 2244(b). Based solely on Petitioner's lack
20 of financial resources, his application to proceed IFP (docket no.
21 4) is GRANTED.

22 The Clerk of the Court shall enter judgment in accordance with
23 this Order, terminate all other pending motions, close the file,
24 and return the petition (docket no. 1) to Petitioner.

25 IT IS SO ORDERED.

26 Dated: 7/23/09
27
28


CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JEWEL HARRISON,

Plaintiff,

Case Number: CV09-01173 CW

V.

EDMUND BROWN et al.

Defendant.

CERTIFICATE OF SERVICE

7 EDMUND BROWN et al,
8 Defendant.
9 _____
10 I, the undersigned, hereby certify that
Court, Northern District of California

10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

11 That on July 23, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
in the Clerk's office.

13

14

15 Jewel Harrison K-74294
FB3-225
16 CSP-Sacramento
P.O. Box 290066
17 Represa, CA 95671

18 || Dated: July 23, 2009

Richard W. Wieking, Clerk
By: Sheilah Cahill, Deputy Clerk

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